

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 01-0001**

**Sales and Use Taxes**

**Calendar Years 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, and 1999**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE(S)**

**I. Selling at Retail – Best Information Available**

**Authority:** 45 IAC 2.2-6-8; IC 6-8.1-5-1

Taxpayer protests the entire audit.

**STATEMENT OF FACTS**

The Taxpayer operates a horse farm and has not filed sales and use tax returns. The audit was based upon best information available as allowed under IC 6-8.1-5-1 (a) because the taxpayer did not reply to the auditor's request. *The Almanac of Business & Industrial Financial Ratios* (1994) by Leo Troy was used to determine the total revenue for the taxpayer. No records were made available to the auditor.

Taxpayer submitted a protest that was received by the Indiana Department of Revenue on December 27, 2000 that states that (1) the estimates had no basis in fact, (2) it has supporting documents to indicate it did not sell the number of horses claimed in the estimated (3) it was not licensed to collect sales tax therefore not liable for penalty on something not licensed for; (4) it did not sell horses until 1996, and (5) it was not given an opportunity to participate in the information gathering process.

Based upon the letter of protest, the hearing officer forwarded the file to the auditor for resolution on April 6, 2001. The auditor returned the file to the Legal Division without resolution because the taxpayer failed to respond to telephone calls and a letter scheduling an appointment was returned to the District Office marked "Unclaimed". Auditor left a telephone message for the taxpayer on May 8 that was not returned.

On May 25, 2001 the hearing officer scheduled a meeting for June 13, 2001 which the taxpayer

cancelled on June 11, 2001. On that same date, the hearing officer wrote the taxpayer stating various problems encountered with the conversation of that day and also advised that records be made available for the auditor. Taxpayer did not notify the hearing officer of additional records as requested. On August 17, 2001, the hearing officer called the auditor and was advised that the taxpayer had not contacted her. On that date, the hearing officer rescheduled a hearing for September 5, 2001 and on August 30, 2001, the taxpayer cancelled the hearing. The hearing officer wrote a letter on September 4, 2001 after a conversation with the taxpayer and asked the taxpayer to provide additional information that may aid in resolving the protest at the legal level instead of the auditor level. On February 19, 2002 a third and final hearing was scheduled for March 6, 2002. The taxpayer did not call or show for the hearing.

**I. Selling at Retail – Best Information Available**

**DISCUSSION**

Taxpayer has not filed Indiana sales and use tax returns for the period January 1990 through December 1999 nor was it registered.

In reviewing the audit report and the file, it is noted that the assessment stems from best information available for both sales and use taxes and the taxpayer had numerous opportunities to provide additional information, either to the auditor or to the hearing officer. Taxpayer provided nothing to aid in the resolution of the audit.

**FINDING**

Taxpayer's protest is denied.